

DEPARTMENT OF STATE

Memorandum of Conversation

DATE: September 26, 1973

SUBJECT: Hot Libyan Oil: Legal Questions

PARTICIPANTS: Mr. James Sites, Thatcher, Proffitt and Wood
 Mr. Stephen Schwebel, Acting Deputy Legal Adviser
 Mr. Dapray Muir, Assistant Legal Adviser for
 Economic and Business Affairs

COPIES TO: EB - Mr. Armstrong
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 EB/ORF - Mr. Katz
 EB/ORF/FSE - Mr. Bennis
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 L - Mr. Feldman
 AF/N - Mr. Blake
 Mr. Lane
 NEA/RA - Mr. Montgomery
 EUR/RPE - Mr. Tarrant
 INR/REC - Mr. Dowell
 ARA/BR - Mr. Low
 Treasury - Mr. Johnson
 Energy Policy Office -
 Mr. DiBona
 Interior - Mr. Ebel
 Justice - Mr. Wilson
 NSC - Mr. Odeen

Mr. Sites called at the suggestion of Mr. George Lane (AF/N)

Mr. Sites explained that his firm represents a company that had contracted to import a cargo of oil originating in Libya.

He was not at liberty to disclose the name of the firm's client.

Mr. Sites asked the following questions:

1. What is the U.S. Government view of the legality of the September 1 decree, particularly in view of the fact that the decree was enacted by a successor government which had disavowed and repealed the pertinent legislation of the predecessor, including, he stated, concession obligations, notably, the obligation to arbitrate?

(Drafting Office and Officer)

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EXCISE

2. Are property rights of the expropriated companies at stake as well as contractual rights?
3. What would the views of the Department of State be in respect of invocation of the Act of State doctrine to bar suits in pursuit of hot oil?

[REDACTED]

[REDACTED]

[REDACTED]

Mr. Sites noted that the Libyan Charge had informed him that LARG might seek to intervene in legal proceedings in the U.S. with an amicus brief.

I asked Mr. Sites if his firm's client was buying Libyan oil at a discount.

[REDACTED]

Mr. Sites

[REDACTED]

I cautioned that the U.S. Government had not made public the legal views set out above and that they should be treated as confidential, as, indeed, his client's interests suggested. He expressed the hope that [REDACTED] not be informed of the information he had given us.

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